

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

No. 4:11-CR-00032-F-1

UNITED STATES OF AMERICA)
)
v.)
)
ROBERT EARL MOODY,)
Defendant.)

O R D E R

This matter is before the court for a competency determination pursuant to 18 U.S.C. § 4241. By order dated July 18, 2013, Defendant was committed to the custody of the Attorney General for an evaluation to determine whether there is reasonable cause to believe that Defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to assist properly in his defense. Defendant has been evaluated as directed, and a report has been prepared by psychologists at the Bureau of Prisons' Federal Correctional Center in Butner, North Carolina.

On November 5, 2013, a hearing was convened, pursuant to 18 U.S.C. § 4247(d), at which Defendant, together with his counsel, Diana Pereira, and an Assistant United States Attorney were present. Defendant was afforded an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine any witnesses who might have appeared at the hearing. However, Defendant, through counsel, chose not to object to the findings of the report or otherwise put on evidence relating to his mental competency. The psychiatric report indicates that Defendant is currently suffering from a mental disease or defect and is unable to understand the nature and consequences of the proceedings against him or to

assist properly in his defense.

The court has carefully considered the psychological evaluation report, together with the record in this case, and personally has observed Defendant in court. At the conclusion of the hearing, the court determined by a preponderance of the evidence, that Defendant presently is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

Accordingly, it is ORDERED that Defendant is COMMITTED to the custody of the Attorney General for hospitalization for treatment in a suitable facility as close as practicable to the court, for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit these proceedings to go forward. 18 U.S.C. § 4241(d). At the conclusion of that period of time, not to exceed four months, the mental health care provider conducting or overseeing Defendant's treatment shall prepare and submit to the court a written report, with copies provided to counsel for Defendant and the Government, detailing his or her professional observations, conclusions and recommendations regarding whether there exists a substantial probability that in the foreseeable future Defendant will attain the capacity to permit these proceedings to go forward. Upon receipt and consideration by the court and counsel for the parties of the four-month treatment report, the court will determine whether Defendant should remain hospitalized and receive treatment for an additional reasonable period of time until his mental condition is so improved that proceedings before the court can continue, or until the pending charges against Defendant are disposed of according to law, whichever is earlier. *Id.*

SO ORDERED.

This the 6 day of November, 2013

James C. Fox
JAMES C. FOX
Senior United States District Judge